

SHB 1279 - H AMD 381

By Representative McCune

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "NEW SECTION. **Sec. 1.** The purpose of law enforcement is to
5 protect and serve, not collect and serve. Anything that corrupts this
6 fundamental goal of guaranteeing public safety demeans and degrades
7 the role of the law enforcement community in the eyes of the public.

8 Automated traffic safety cameras are rapidly devolving into just
9 such a degradation. Rather than fulfilling the original purpose for
10 which the devices were approved, these cameras are instead seen by
11 some as an opportunity to fleece the public in the guise of improving
12 public safety. Although the cameras may still serve a legitimate
13 purpose, further restrictions are necessary to ensure that misuse is
14 prevented and that the public's faith in the fairness of the system is
15 upheld.

16
17 **Sec. 2.** RCW 46.63.170 and 2010 c 161 s 1127 are each amended to
18 read as follows:

19 (1) The use of automated traffic safety cameras for issuance of
20 notices of infraction is subject to the following requirements:

21 (a) The appropriate local legislative authority must first
22 (~~enact~~) adopt an ordinance allowing for their use to detect one or
23 more of the following: Stoplight, railroad crossing, or school speed
24 zone violations. At a minimum, the local ordinance must contain the
25 restrictions described in this section and provisions for public
26 notice and signage. Cities and counties using automated traffic
27 safety cameras before July 24, 2005, are subject to the restrictions

1 described in this section, but are not required to enact an
2 authorizing ordinance.

3 (b) A local legislative authority that adopts an ordinance
4 allowing for the use of automated traffic safety cameras must submit
5 the ordinance to the voters within its jurisdiction at the next
6 general election. The ordinance must be approved by a majority of the
7 voters before automated traffic safety cameras may be used within the
8 jurisdiction.

9 (c) In cities and counties using automated traffic safety cameras
10 before July 24, 2005, the local legislative authority must submit a
11 proposition to the voters within its jurisdiction at the next general
12 election. The proposition must ask voters to approve or reject the
13 continued use of automated traffic safety cameras. If the proposition
14 is not approved by a majority of the voters, automated traffic safety
15 cameras may not be used within the jurisdiction unless the local
16 legislative authority meets the requirements for cities and counties
17 not using automated safety cameras before July 24, 2005.

18 (d) Use of automated traffic safety cameras is restricted to two-
19 arterial intersections where the duration of the yellow change
20 interval for the stoplight is at least four seconds, railroad
21 crossings, and school speed zones only.

22 ~~((e))~~ (e) During the 2009-2011 fiscal biennium, automated
23 traffic safety cameras may be used to detect speed violations for the
24 purposes of section 201(2), chapter 470, Laws of 2009 if the local
25 legislative authority first enacts an ordinance authorizing the use of
26 cameras to detect speed violations.

27 ~~((d))~~ (f) Automated traffic safety cameras may only take
28 pictures of the vehicle and vehicle license plate and only while an
29 infraction is occurring. The picture must not reveal the face of the
30 driver or of passengers in the vehicle.

31 ~~((e))~~ (g) A notice of infraction must be mailed to the
32 registered owner of the vehicle within fourteen days of the violation,
33 or to the renter of a vehicle within fourteen days of establishing the
34 renter's name and address under subsection (3)(a) of this section.

1 The law enforcement officer issuing the notice of infraction shall
2 include with it a certificate or facsimile thereof, based upon
3 inspection of photographs, microphotographs, or electronic images
4 produced by an automated traffic safety camera, stating the facts
5 supporting the notice of infraction. This certificate or facsimile is
6 prima facie evidence of the facts contained in it and is admissible in
7 a proceeding charging a violation under this chapter. The
8 photographs, microphotographs, or electronic images evidencing the
9 violation must be available for inspection and admission into evidence
10 in a proceeding to adjudicate the liability for the infraction. A
11 person receiving a notice of infraction based on evidence detected by
12 an automated traffic safety camera may respond to the notice by mail.

13 ~~((f))~~ (h) The registered owner of a vehicle is responsible for
14 an infraction under RCW 46.63.030(1)(e) unless the registered owner
15 overcomes the presumption in RCW 46.63.075, or, in the case of a
16 rental car business, satisfies the conditions under subsection (3) of
17 this section. If appropriate under the circumstances, a renter
18 identified under subsection (3)(a) of this section is responsible for
19 an infraction.

20 ~~((g))~~ (i) Notwithstanding any other provision of law, all
21 photographs, microphotographs, or electronic images prepared under
22 this section are for the exclusive use of law enforcement in the
23 discharge of duties under this section and are not open to the public
24 and may not be used in a court in a pending action or proceeding
25 unless the action or proceeding relates to a violation under this
26 section. No photograph, microphotograph, or electronic image may be
27 used for any purpose other than enforcement of violations under this
28 section nor retained longer than necessary to enforce this section.

29 ~~((h))~~ (j) All locations where an automated traffic safety camera
30 is used must be clearly marked by placing signs in locations that
31 clearly indicate to a driver that he or she is entering a zone where
32 traffic laws are enforced by an automated traffic safety camera.

33 ~~((i))~~ (k) If a county or city has established an authorized
34 automated traffic safety camera program under this section, the

1 compensation paid to the manufacturer or vendor of the equipment used
2 must be based only upon the value of the equipment and services
3 provided or rendered in support of the system, and may not be based
4 upon a portion of the fine or civil penalty imposed or the revenue
5 generated by the equipment.

6 (2) Infractions detected through the use of automated traffic
7 safety cameras are not part of the registered owner's driving record
8 under RCW 46.52.101 and 46.52.120. Additionally, infractions
9 generated by the use of automated traffic safety cameras under this
10 section shall be processed in the same manner as parking infractions,
11 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and
12 46.20.270(3). However, the amount of the fine issued for an
13 infraction generated through the use of an automated traffic safety
14 camera shall not exceed the lesser of the amount of a fine issued for
15 other parking infractions within the jurisdiction or fifty dollars.

16 (3) If the registered owner of the vehicle is a rental car
17 business, the law enforcement agency shall, before a notice of
18 infraction being issued under this section, provide a written notice
19 to the rental car business that a notice of infraction may be issued
20 to the rental car business if the rental car business does not, within
21 eighteen days of receiving the written notice, provide to the issuing
22 agency by return mail:

23 (a) A statement under oath stating the name and known mailing
24 address of the individual driving or renting the vehicle when the
25 infraction occurred; or

26 (b) A statement under oath that the business is unable to
27 determine who was driving or renting the vehicle at the time the
28 infraction occurred because the vehicle was stolen at the time of the
29 infraction. A statement provided under this subsection must be
30 accompanied by a copy of a filed police report regarding the vehicle
31 theft; or

32 (c) In lieu of identifying the vehicle operator, the rental car
33 business may pay the applicable penalty.

34

1 Timely mailing of this statement to the issuing law enforcement
2 agency relieves a rental car business of any liability under this
3 chapter for the notice of infraction.

4 (4) Nothing in this section prohibits a law enforcement officer
5 from issuing a notice of traffic infraction to a person in control of
6 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
7 (b), or (c).

8 (5) For the purposes of this section, "automated traffic safety
9 camera" means a device that uses a vehicle sensor installed to work in
10 conjunction with an intersection traffic control system, a railroad
11 grade crossing control system, or a speed measuring device, and a
12 camera synchronized to automatically record one or more sequenced
13 photographs, microphotographs, or electronic images of the rear of a
14 motor vehicle at the time the vehicle fails to stop when facing a
15 steady red traffic control signal or an activated railroad grade
16 crossing control signal, or exceeds a speed limit in a school speed
17 zone as detected by a speed measuring device. During the 2009-2011
18 fiscal biennium, an automated traffic safety camera includes a camera
19 used to detect speed violations for the purposes of section 201(2),
20 chapter 470, Laws of 2009.

21 (6) During the 2009-2011 fiscal biennium, this section does not
22 apply to automated traffic safety cameras for the purposes of section
23 218(2), chapter 470, Laws of 2009."

24

25 Correct the title.

EFFECT: Removes the entire underlying bill and replaces it with
HB 1590, which contains the following provisions:

- Requires a legislative authority that adopts an ordinance allowing for the use of automated traffic safety cameras to submit the ordinance to the voters within its jurisdiction at a general election;
- Requires cities and counties using automated traffic safety cameras before July 24, 2005, to submit a proposition to the voters within its jurisdiction at the next general election to receive approval for the continued use of automated traffic safety cameras within the jurisdiction;
- Requires the duration of the yellow change interval at

stoplights with automated traffic safety cameras to be at least four seconds; and

- Limits the amount of a fine issued for an infraction generated through the use of an automated safety camera to the lesser of the amount of a fine issued for other parking infractions within the jurisdiction or fifty dollars.

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